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UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION IV

In The Matter Of:
SCRDI Bluff Road Site

Allied-Signal, Inc.
EM Industries Inc.
Monsanto Company

)
)
) Proceeding Under Section
) 106 (a) of the Comprehensive
) Environmental Response,
) Compensation, and Liability
) Act of 1980, as amended by
) the Superfund Amendments and
) Reauthorization Act of 1986
) 42 U.S.C. Section 9606(a)
)
) U.S. EPA Docket No. 91-19C

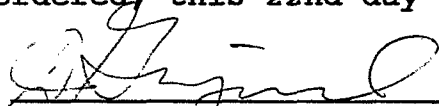
MODIFICATION OF THE UNILATERAL ADMINSTRATIVE ORDER
FOR REMEDIAL DESIGN AND REMEDIAL ACTION

I. On April 8, 1991, a Unilateral Adminstrative Order For Remedial Design and Remedial Action ("Order") was issued directing Allied-Signal, Inc., EM Industries Inc. and Monsanto Company, hereinafter referred to collectively as "Respondents," to develop the Remedial Design ("RD") for the remedy described in the Record of Decision dated September 12, 1990, and the Explanation of Significant Differences dated March 5, 1991, for the SCRDI Bluff Road Superfund Site, and to implement the Remedial Design by performing a Remedial Action ("RA"), including Operation and Maintenance, and Performance Monitoring. Pursuant to Section XXVIII of that Order, the Order was to become effective on April 22, 1991.

Pursuant to Section XXX of the Order entitled "Modification," the United States hereby modifies Section XXVIII of the Order to state that the effective date of the Order shall be May 21, 1991. All other provisions of that Section XXVIII and the Order shall remain as originally stated in the Order issued to Respondents on April 8, 1991.

So Ordered, this 22nd day of April, 1991.

BY:



Donald J. Guinyard
Acting Director of Waste Management Division
Region IV
U.S. Environmental Protection Agency

DATE: 4/22/91

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UNILATERAL ADMINISTRATIVE ORDER
FOR REMEDIAL DESIGN AND REMEDIAL ACTION

I. INTRODUCTION AND JURISDICTION

A. This Unilateral Administrative Order For Remedial Design and Remedial Action ("Order") directs Allied-Signal, Inc., EM Industries, Inc. and Monsanto Company, hereinafter referred to collectively as "Respondents," to develop the Remedial Design ("RD") for the remedy described in the Record of Decision dated September 12, 1990, and the Explanation of Significant Differences dated March 5, 1991, for the SCRDI Bluff Road Superfund Site, and to implement the Remedial Design by performing a Remedial Action ("RA"), including Operation and Maintenance, and Performance Monitoring. This Order is issued to Respondents by the United States Environmental Protection Agency ("EPA") under the authority vested in the President of the United States by Section 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980,

as amended ("CERCLA"), 42 U.S.C. § 9606(a). This authority was delegated to the Administrator of EPA on January 23, 1987, by Executive Order 12580 (52 Fed. Reg. 2926, January 29, 1987), and was further delegated to EPA Regional Administrators on September 13, 1987, by EPA Delegation No. 14-14-B and redelegated to the Director, Waste Management Division on January 5, 1989, by Regional Delegation No. 8-14-A.

I. FINDINGS OF FACT

A. The SCRDI Bluff Road Superfund Site ("Site") is located on the north side of South Carolina Highway 48 (also known as Bluff Road), opposite the Westinghouse Nuclear Fuel Plant main entrance, and is approximately 10 miles southeast of Columbia, and 10 miles northwest of Gadsden in Richland County, South Carolina. The Site is surrounded by a sparsely populated rural setting. Most of the nearby property and rear portions of the Site have been classified by the Corps of Engineers as wetlands.

The first reported use of the Site was as an acetylene gas manufacturing facility. Specific dates and other details regarding the facility operations are not available. However, two lagoons were constructed at the north end of the cleared area of the Site to support acetylene manufacturing.

From approximately 1974, through 1982, the Site was operated at various times by Columbia Organic Chemical Company, South Carolina Recycling and Disposal, Inc., James Q. A. McClure, Henry M. Tischler, and Max G. Gergel, for the storage, recycle and disposal of industrial chemical wastes. In 1982, the Site was closed. Preliminary cleanup of the Site was performed in 1982 and 1983.

In 1982, pursuant to a partial settlement agreement, certain companies identified by EPA as Potentially Responsible Parties ("PRPs") for the Site conducted a surface cleanup of the Site. Drums of chemicals and contaminated soil were removed and many areas were covered with gravel to provide clean roads. The on-site lagoon, material adjacent to the lagoon (identified as lime), and a large aboveground tank remained on-site.

On August 15, 1986, the United States District Court for the District of South Carolina entered a judgment (modified on September 23, 1986) against Allied-Signal Inc., EM Industries, Inc., and Monsanto Company, styled United States v. Monsanto Company, et al. (80-1274-6), in favor of the United States of America, finding Respondents jointly and severally liable under CERCLA § 107(a), 42 U.S.C. § 9607(a), for response costs incurred by EPA in connection with the Site.

B. Respondents Allied-Signal, Inc.; EM Industries Inc.; and Monsanto Company arranged by contact or agreement, or otherwise, for the storage, disposal or treatment of hazardous substances owned or possessed by Respondents. Hazardous substances of the

same kind as those owned or possessed by Respondents Allied-Signal Inc.; EM Industries, Inc.; and Monsanto Company have been detected at the Site.

C. On September 8, 1983, (48 Fed. Reg. 40658), pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, EPA placed the SCRDI Bluff Road Superfund Site on the National Priorities List, set forth at 40 C.F.R. Part 300, Appendix B.

D. From about April 1, 1988, to about March, 1990, a Remedial Investigation and Feasibility Study ("RI/FS") was conducted pursuant to CERCLA and the National Contingency Plan, 40 C.F.R. Part 300, by certain parties pursuant to an Administrative Order by Consent (EPA Docket No. 88-16-C).

E. Pursuant to Section 117(a) of CERCLA, 42 U.S.C. § 9617(a), EPA published notice of the completion of the FS and of the proposed plan for remedial action on April 1, 1990, and provided opportunity for public comment on the proposed remedial action. The comments received were addressed in the Responsiveness Summary to the "ROD," as defined in Paragraph F of this Section II.

F. The decision by EPA on the remedial action to be implemented at the SCRDI Bluff Road Superfund Site is embodied in (i) a Record of Decision ("ROD"), executed on September 12, 1990, on which the State of South Carolina had a reasonable opportunity to review, and selecting a remedy with which the State has concurred; and (ii) in the Explanation of Significant Differences ("ESD"), which was executed on March 5, 1991,

after notice to the State of South Carolina, and which was made available to the public on March 22, 1991. The Record of Decision is attached to this Order as Appendix 1 and is incorporated by reference. The Explanation of Significant Differences is attached to this Order as Appendix 1A and is incorporated by reference. The Record of Decision and Explanation of Significant Differences are supported by an administrative record that contains the documents and information upon which EPA based its selection of the remedial action for the Site.

G. Site investigations by EPA in March 1980, prior to the removal of waste material stored at the Site revealed a variety of metals on and around the Site. Sources of the metals include deteriorating drums, natural soil metals, waste lime from the previous acetylene manufacture at the Site, and spilled hazardous wastes from leaking storage containers on the Site.

During the RI/FS soils, surface waters, sediments, groundwater and air were sampled for contamination. This sampling showed that the lagoons, surface soils and subsurface soils at the Site are contaminated with volatile and semi-volatile organics, pesticides, PCBs and metals. The soils contamination extends through the top 11 feet of soil at the Site from Bluff Road to the former wet lagoon areas. Sediments from both lagoons on the Site are contaminated with a variety of organic chemicals and metals, although heavy metals are

limited. Water in the wet lagoon is contaminated with metals, although no organic chemicals were found. Groundwater in the surficial aquifer at the Site and off-site is contaminated, primarily with volatile and semi-volatile organics. Contamination of the lagoons and soils at the Site are the source of the groundwater contamination.

Contamination not only exists on the Site, but has moved off-site as well. A contaminant plume, with an estimated volume of 263,296,000 gallons and approximately 1000 feet wide, has migrated off-site in a southeasterly direction extending about 2200 feet from the eastern edge of the wet lagoon on the Site. The RI/FS indicated that there is a downward head in the surficial aquifer and it could recharge the deeper aquifer. Overall discharge from the aquifer may recharge Myers Creek which is located 3,200 feet northwest of the Site.

H. The specific contaminants, and the level of contamination, found in the surface soils, subsurface soils, lagoon sediments and groundwater at the Site are set forth in Appendix 4 attached to this Order and made a part hereof by this reference. The surface soil contaminants at the Site include, but are not limited to, the following confirmed human carcinogens: benzene, vinyl chloride, arsenic, chromium and nickel. Groundwater contaminants at the Site include, but are not limited to, the following confirmed human carcinogens: benzene and vinyl chloride; and the following probable human carcinogens: carbon

tetrachloride, chloroform, methylene chloride, tetrachloroethylene, trichloroethylene and bis-(2-ethylhexyl) phthalate.

I. The Bluff Road Superfund Site is in an area of mixed land use in a rural setting. Much of the land near the Site is wooded. Hay is the immediate area's prime agricultural product. Mill Creek and its associated wetlands are the dominant natural features on the south side of Bluff Road. Other creeks near the Site are also bordered by wetlands. A major industrial facility is located directly across the road from the Site, but is set back almost 2000 feet. This plant is the only commercial structure within one mile of the Site.

The population within one mile of the Site is estimated to be 108 individuals as of October 1989, living in 47 dwellings. There are 19 dwellings along Lower Richland Boulevard, 17 along Bluff Road, four dwellings on Pincushion Road, and seven dwellings on Coley Road. The land use in the Site area is scrub and brush encircling an area of woodland which surrounds the Site.

Fishing occurs in Myers Creek. If chemicals from the Site reach Myers Creek, these chemicals may concentrate in fish tissues, which then may be consumed by human beings. Deer hunting is a major activity in the area surrounding the Site. Deer may ingest site-related chemicals from drinking water in Myers Creek and by consuming vegetation growing on the Site.

Bioconcentration in the tissue of deer has been shown to be a potential exposure pathway to people who eat the deer killed in the area.

Groundwater at the Site is designated as suitable for drinking water purposes by the State of South Carolina. Direct consumption of groundwater from the surficial aquifer within the contaminant plume at and from the Site would present unacceptable levels of exposure.

Concentrations of contaminants in the groundwater, soils and sediments on the Site pose human health risks if individuals are exposed to the contaminants. The rural nature of the Site, the area's usage for hunting, and downgradient streams create a significant potential for human and animal exposures to these contaminated media.

J. Remedy Chosen

The final remedy is documented in EPA's Record of Decision and Explanation of Significant Differences, which are the documents that present EPA's final selection for cleanup. The ROD and the ESD are available to the public at the main branch of the Richland County Library and at EPA's Region IV offices.

From the nine remedial alternatives, two remedies were selected. One, air stripping, addresses groundwater contamination; the other, soil vapor extraction (also known as soil venting), addresses soil contamination.

1. Air Stripping. Contaminated groundwater will be extracted or removed from the shallow aquifer using wells and

treated by air stripping, a process in which air is forced through contaminated water causing volatile organic compounds (carbon-containing compounds that evaporate easily at room temperature) to evaporate. Other organic compounds in the water will be removed by carbon adsorption treatment. This process uses granular activated carbon (GAC) to remove organic contaminants. Wells will be placed in the most highly contaminated areas (for rapid removal of contaminants) and at the edge of the contaminant plume. The purpose of the wells at the plume edge is to limit expansion of the plume. After undergoing the treatment process described above, treated groundwater will be reinjected into the ground.

2. Soil vapor extraction (In-situ soil venting). Soil venting will treat contaminated soils while they remain in place at the Site. The process will use a network of air withdrawal or vacuum wells to create a vacuum on underground soils. This subsurface vacuum will cause volatile organic compounds to evaporate.

K. The two components of the remedy, groundwater and soils remediation, will achieve cleanup levels at the Site sufficient to protect the public's health. The combined remediations of pumping groundwater and treating it by air stripping, and treating soils by soil vapor extraction with air stripping, are proven treatment technologies. In particular, bench and field tests of the soil vapor extraction at the Site showed the

treatment technology's ability to meet the cleanup levels identified in the ROD, as protective of human health and the environment. The target cleanup levels for groundwater, soil, and lagoon sediments are set forth in Appendix 5 to this Order, which Appendix is incorporated herein by this reference.

II. CONCLUSIONS OF LAW AND DETERMINATIONS

- A. The SCRDI Bluff Road Superfund Site is a "facility" as defined in Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).
- B. Respondents are "persons" as defined in Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).
- C. Respondents Allied-Signal, Inc.; EM Industries, Inc.; and Monsanto Company are "liable parties" as defined in Section 107(a) of CERCLA, 42 U.S.C. § 9607(a).
- D. The contaminants found at the SCRDI Bluff Road Superfund Site as set forth in Appendix 4 to this Order, are "hazardous substances" as defined in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).
- E. These hazardous substances have been and are being released from the Site into the soil and groundwater at the SCRDI Bluff Road Superfund Site.
- F. The past disposal and migration of hazardous substances from the SCRDI Bluff Road Superfund Site are a "release" as defined in Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).
- G. The potential for future migration of hazardous substances

from the SCRDI Bluff Road Superfund Site poses a threat of a "release" as defined in Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

H. The threat of release of one or more hazardous substances from the facility may present an imminent and substantial endangerment to the public health or welfare or the environment.

I. The actions required by this Order are necessary to protect the public health, welfare, and the environment.

IV. NOTICE TO THE STATE

A. On March 4, 1991, prior to issuing this Order, EPA notified the State of South Carolina Department of Health and Environmental Control that EPA would be issuing this Order.

V. DEFINITIONS

Unless noted to the contrary, the terms of this Administrative Order shall have the meaning assigned to those terms pursuant to CERCLA or any regulation promulgated under CERCLA. Whenever the terms listed below are used in this Administrative Order and Exhibits and Appendices attached hereto, the following definitions shall apply:

A. "CERCLA" shall mean the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 41 U.S.C. § 9601 et seq.

B. "Day" shall mean a calendar day unless expressly stated to be a working day. "Working day" shall mean a day other than a

Saturday, Sunday, or Federal holiday. In computing any period of time under this Order, where the last day would fall on a Saturday, Sunday, or federal holiday, the period shall run until the end of the next working day.

C. "EPA" shall mean the United States Environmental Protection Agency.

D. "Hazardous substance" shall mean any substance meeting the definition provided in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

E. "National Contingency Plan" or "NCP" shall mean the National Oil and Hazardous Substances Pollution Contingency Plan promulgated pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, codified at 40 C.F.R. Part 300, including any amendments thereto.

F. "Operation and Maintenance" or "O&M" shall mean all activities required to maintain the effectiveness of the Remedial Action at the Site, as identified by the ROD, the ESD, the Scope of Work and the Final Operation and Maintenance Plan developed by Respondents and approved by EPA pursuant to this Order, including any additional activities Operation and Maintenance required by Sections XI and XII.

G. "Paragraph" shall mean a portion of this Order identified by an upper case letter of the alphabet.

H. "Parties" shall mean the United States and the Respondents.

I. "Performance Monitoring" shall mean all activities required by the ROD, the ESD, the Scope of Work, and the Cleanup Goal Verification Plan developed by Respondents and approved by EPA,

including any additional activities required by Sections XI or XII, to ensure the effectiveness of the implemented remedy confirming over time that all cleanup goals are met.

J. "Performance Standards" shall mean those cleanup standards, standards of control, and other substantive requirements, criteria or limitations, identified in the ROD, the ESD, the Scope of Work, the Remedial Action Work Plan and the Remedial Design Work Plan developed by Respondents and approved by EPA pursuant to this Order, including any additional activities required by Sections XI and XII.

K. "Pollutant or contaminant" shall mean any substance defined in Section 101(33) of CERCLA, 42 U.S.C. § 9601(33).

L. "Record of Decision" or "ROD" shall mean the EPA Record of Decision relating to the Site which was signed on September 12, 1990, by the Regional Administrator, EPA Region IV, and all attachments thereto, and shall include, as well, the Explanation of Significant Differences signed by the Regional Administrator, EPA Region IV, March 5, 1991, explaining a significant change to the final remedial action selected in the ROD and setting forth the reasons for such change. The ROD, which is attached to this Order as Appendix 1, and the ESD, which is attached to this Order as Appendix 1A, are incorporated herein by reference.

M. "Remedial Action" shall mean all property acquisition, excavation, transportation, construction, treatment or other similar activities required by the ROD, the ESD, the Scope of Work, and the Remedial Action Work Plan developed by Respondents

and approved by EPA pursuant to this Order, including any additional activities required by Sections XI and XII.

N. "Remedial Design" shall mean all studies, investigations or surveys conducted and plans and specifications prepared that are necessary to implement the Remedial Action, Operation and Maintenance, and Performance Monitoring Activities required by the ROD, the ESD, the Scope of Work and the Remedial Design Work Plan developed by Respondents and approved by EPA pursuant to this Order, including any additional activities required by Sections XI and XII.

O. "Scope of Work," or "SOW" shall mean the scope of work for implementation of the Remedial Design, Remedial Action, Operation and Maintenance, and Performance Monitoring work at the Site, as set forth in Appendix 2, attached hereto and incorporated herein by reference.

P. "Section" shall mean a portion of this Order identified by a Roman numeral and including one or more paragraphs.

Q. "Site" shall mean the SCRDI Bluff Road Superfund Site, located on the north side of South Carolina, Highway 48, opposite the Westinghouse Nuclear Fuel Plant's main entrance, in Richland County, South Carolina, approximately 10 miles southeast of Columbia, South Carolina and 10 miles northwest of Gadsen, South Carolina, as described in the ROD and depicted on the map which is attached to this Order as Appendix 3.

R. "State" shall mean the State of South Carolina.

S. "United States" shall mean the United States of America.

T. "Work" shall mean all activities Respondents are required to perform under this Order, including Remedial Design, Remedial Action, Operation and Maintenance, and Performance Monitoring in accordance with Section IX, hereof, and any schedules or plans required to be submitted pursuant thereto, including any additional work required under Sections IX, X, XI, XII, XIV and XVI.

VI. ORDER

Based on the foregoing, Respondents are hereby ordered, jointly and severally, to comply with the following provisions, including but not limited to all attachments to this Order, all documents incorporated by reference into this Order, and all schedules and deadlines in this Order, attached to this Order, or incorporated by reference into this Order:

VII. NOTICE OF INTENT TO COMPLY

Respondents shall provide, not later than five (5) days after the effective date of this Order, written notice to EPA's Remedial Project Manager (RPM) stating whether they will comply with the terms of this Order. If Respondents do not unequivocally commit to perform the RD, RA, O&M, and Performance

Monitoring as provided by this Order they shall be deemed to have violated this Order and to have failed and refused to comply with this Order. Respondents' written notice shall set forth, using facts that exist on or prior to the effective date of this Order, any "sufficient cause" defenses asserted by Respondents under Sections 106(b) and 107(c)(3) of CERCLA.

VIII. PARTIES BOUND

A. This Order applies to and shall be binding upon Respondents, as identified in Section II, their directors, officers, successors, and assigns. Respondents are jointly and severally responsible for carrying out all activities required by this Order. No change in the ownership, corporate or other control of any Respondents shall alter the Respondents' responsibilities under this Order.

B. Respondents shall provide a copy of this Order to all contractors, sub-contractors, laboratories, and consultants retained to perform any Work under this Order, within five days after the effective date of this Order, or on the date such services are retained, whichever date occurs later.

Notwithstanding the terms of any contract, Respondents are responsible for ensuring that their contractors and subcontractors and agents perform the work contemplated herein in accordance with this Order.

C. With regard to the activities undertaken pursuant to this Order, each contractor and subcontractor and their agents shall

be deemed to be related by contract to the Respondents within the meaning of Section 107(b)(3) of CERCLA, 42 U.S.C. § 9607(b)(3).D.

IX. WORK TO BE PERFORMED

- A. Appendix 2 to this Order is a Scope of Work for the Remedial Design and Remedial Action at the Site. The Scope of Work is incorporated into this Order by reference as if fully set forth herein and is thereby both a requirement and an enforceable part of this Order.
- B. Respondents shall cooperate with EPA in providing information regarding the Work to the public. As requested by EPA, Respondents shall participate in the preparation of such information for distribution to the public and in public meetings which may be held or sponsored by EPA to explain activities at or relating to the Site.
- C. All aspects of the Work to be performed by Respondents pursuant to this Order shall be under the direction and supervision of a qualified contractor ("supervising contractor") who shall be a qualified professional engineer or geologist with expertise in hazardous waste cleanups, the selection of which shall be subject to approval by EPA. Within fifteen (15) days after the effective date of this Order, Respondents shall submit to EPA in writing the name, title, and qualifications of the supervising contractor, including primary support entities and staff, proposed to be used in carrying out any Work performed under this Order.

D. If EPA disapproves of the selection of the supervising contractor, Respondents shall submit to EPA within fifteen (15) days after receipt of EPA's disapproval of the supervising contractor previously selected, a list of contractors, including primary support entities and staff, that would be acceptable to Respondents. EPA shall, after receipt of the list, provide written notice of the names of the contractors it approves. Respondents may select any approved contractor from that list and shall notify EPA of the name of the supervising contractor selected within fifteen (15) days of EPA's designation of approved contractors.

E. If at any time thereafter, Respondents propose to use a different supervising contractor for work at the Site, Respondents shall notify EPA and shall obtain approval from EPA before a new supervising contractor performs any work under this Order. Any change in the supervising contractor made pursuant to this Paragraph, shall not excuse any Work, deadlines or schedules required under this Order.

F. Remedial Design - Within thirty (30) days after Project Coordinator approval by EPA, Respondents shall submit a work plan for the Remedial Design at the Site ("Remedial Design Work Plan" or "RD Work Plan") to EPA for review, modification and/or approval. The RD Work Plan shall be developed in accordance with the SOW and be consistent with the ROD, the ESD, the EPA Superfund Remedial Design and Remedial Action Guidance, and any additional guidance documents identified by EPA. Upon approval

by EPA, the RD Work Plan is incorporated into and becomes enforceable under this Order as if fully set forth herein. Upon approval of the RD Work Plan by EPA, Respondents shall implement the Work Plan in accordance with the schedule therein. Unless otherwise directed by EPA, Respondents shall not commence field activities or site work until written approval of the RD Work Plan by EPA.

G. Remedial Action - As required by the SOW, Respondents shall submit for review, modification, and/or approval by EPA, a work plan for the performance of the remedial action at the Site ("Remedial Action Work Plan" or "RA Work Plan"). The RA Work Plan shall be developed in accordance with the SOW and be consistent with the ROD, the ESD, the EPA Superfund Remedial Action Guidance and any additional guidance documents identified by EPA. Upon approval by EPA, the RA Work Plan is incorporated into this Order as a requirement of this Order and becomes an enforceable part of this Order as if fully set forth herein. Upon approval of the RA Work Plan and all Remedial Design documents by EPA, after reasonable opportunity for review and comment by the State of South Carolina, Respondents shall implement the RA Work Plan in accordance with the schedules set out therein. Unless otherwise directed by EPA, Respondents shall not commence physical on-site activities prior to approval of the RA Work Plan by EPA.

H. Operation and Maintenance and Performance Monitoring - The Respondents shall implement the Operation and Maintenance and Performance Monitoring activities as required by the Scope of Work.

I. Performance Standards - The Work performed by Respondents pursuant to this Order shall, at a minimum, achieve the Performance Standards specified in the Record of Decision, the ESD and the Scope of Work.

J. Warranties - Notwithstanding any action by EPA, Respondents remain fully responsible for achievement of the Performance Standards in the Record of Decision and the ESD. Nothing in this Order, or in EPA's approval of the Remedial Design or Remedial Action Work Plans, or approval of any other submission, shall be deemed to constitute a warranty or representation of any kind by EPA that full performance of the Remedial Design or Remedial Action will achieve the Performance Standards set forth in the ROD, the ESD and in the Scope of Work. Respondents' compliance with such approved documents does not foreclose EPA from seeking additional work to achieve Performance Standards.

K. Notification of Off-Site Waste Shipment - All materials removed from the Site shall be disposed of or treated at a facility approved by the EPA Project Coordinator and in accordance with Section 121(d)(3) of CERCLA, 42 U.S.C.

§ 9621(d)(3), with the U.S. EPA "Revised Off-Site Policy," OSWER Directive 9834.11, November 13, 1987, and with all other

applicable Federal, State and local requirements. Respondents shall, prior to any off-site shipment of hazardous substances from the Site to an off-site waste management facility, provide written notification to the appropriate state environmental official in the receiving state and to the EPA Project Coordinator, of such shipment of hazardous substances. However, the notification of shipments shall not apply to any off-Site shipments when the total volume of all shipments from the Site to the State will not exceed ten (10) cubic yards.

1. The notification shall be in writing, and shall include the following information, where available: (a) the name and location of the facility to which the hazardous substances are to be shipped; (b) the type and quantity of the hazardous substances to be shipped; (c) the expected schedule for the shipment of the hazardous substances; and (d) the method of transportation. Respondents shall notify the receiving state of major changes in the shipment plan, such as a decision to ship the hazardous substances to another facility within the same state, or to a facility in another state.

2. The identity of the receiving facility and state will be determined by Respondents following the award of the contract for Remedial Action construction. Respondents shall provide all relevant information on the off-site shipments as soon as practicable after the award of the contract and before the hazardous substances are actually shipped.

3. The contents of this provision shall not be considered to be approval of the off-site shipment of materials from the Site where the ROD or ARAR requires treatment and/or storage on-site.

X. FAILURE TO ATTAIN PERFORMANCE STANDARDS

A. In the event that EPA determines that additional response activities are necessary to meet Performance Standards, EPA shall notify Respondents that additional response activities are necessary.

B. Unless otherwise stated by EPA, within thirty (30) days of receipt of notice from EPA that additional response activities are necessary to meet Performance Standards, Respondents shall submit for approval by EPA a work plan for the additional response activities. The plan shall conform to the applicable requirements of Sections IX, XVI and XVII as appropriate. Upon EPA's approval of the plan pursuant to Section XIV, Respondents shall implement the plan for additional response activities in accordance with the schedule contained therein.

XI. EPA PERIODIC REVIEW

Under Section 121(c) of CERCLA, 42 U.S.C. Section 9621(c), and any applicable regulations, EPA may review the Site to assure that the Work performed pursuant to this Order adequately protects human health and the environment. Until such time as

EPA issues the Certification of Completion of the Work pursuant to Section XXVII, Respondents shall conduct the requisite studies, investigations, or other response actions as determined necessary by EPA. As a result of any review performed under this section, Respondents may be required to perform additional work or to modify work previously performed.

XII. ADDITIONAL WORK

A. EPA may determine that in addition to the Work identified in this Order and attachments to this Order, additional work may be necessary to meet the Performance Standards described in Section IX or to protect human health and the environment. If EPA determines that additional work is necessary, EPA will notify Respondents and may require Respondents to submit a work plan for additional work. EPA may also require Respondents to modify any plan, design, or other deliverable required by this Order, including any approved modifications. Respondents shall notify EPA in writing of their intent to perform such additional work within seven (7) days after receipt of EPA's request for additional work.

B. Unless otherwise stated by EPA, not later than thirty (30) days after receiving EPA's notice that additional work is required pursuant to this Section, Respondents shall submit a work plan for the additional work ("Additional Work Plan") to

EPA for review and approval. The Additional Work Plan shall conform to the requirements in Section IX, XVI and XVII as appropriate. Upon approval by EPA, the Additional Work Plan shall be incorporated into this Order as a requirement of this Order and shall be an enforceable part of this Order as if fully set forth herein. Upon approval of the Additional Work Plan pursuant to the procedures set forth in Section XIV, Respondents shall implement the Additional Work Plan according to the standards, specifications, and schedule in the approved Additional Work Plan.

XIII. ENDANGERMENT AND EMERGENCY RESPONSE

A. In the event of any action or occurrence after the effective date of this Order which causes or threatens a release of a hazardous substance or which may present an immediate threat to public health or welfare or the environment, Respondents shall immediately take all appropriate action to prevent, abate, or minimize such release or endangerment, and shall immediately notify EPA's Project Coordinator, or, if EPA's Project Coordinator is unavailable, the EPA Emergency Response and Removal Branch, Region IV. Respondents shall take such action in consultation with EPA's Project Coordinator and in accordance with all applicable provisions of this Order, including, but not limited to, the Health and Safety/Contingency Plan developed pursuant to the SOW. In the event that Respondents fail to take

appropriate response action as required by this Section, and EPA takes that action instead, EPA reserves the right to pursue reimbursement for all costs incurred by the United States and attributable to the response action that are not inconsistent with the NCP.

B. Nothing in the preceding Paragraph shall be deemed to limit any authority of the United States to take, direct, or order any appropriate action necessary to protect human health and the environment or to prevent, abate, or minimize an actual or threatened release of hazardous substances on, at, or from the Site.

XIV. EPA REVIEW OF SUBMISSIONS

A. Upon receipt of any plan, report or other item which is required to be submitted for approval pursuant to this Order, EPA shall either: (1) approve the submission; or (2) disapprove the submission, notifying Respondents of deficiencies. If such submission is disapproved, EPA shall either (1) notify Respondents that EPA will assume the responsibility for modifying the submission to correct the deficiencies, including, if necessary, the underlying Work; or (2) direct the Respondents to modify the submission to correct the deficiencies and, if necessary, the underlying Work.

B. In the event of approval or modification by EPA, Respondents shall proceed to take any action required by the plan, report, or other item, as approved or modified.

C. Upon receipt of a notice of disapproval and directive for modification, Respondents shall, within 30 days, or such time as specified by EPA in its notice of disapproval or request for modification, correct the deficiencies and resubmit the plan, report, or other item for approval. Notwithstanding the notice of disapproval, Respondents shall proceed, at the direction of EPA, to take any action required by any nondeficient portion of the submission.

D. If, upon resubmission, the plan, report, or item is not approved, Respondents shall be deemed to be in violation of this Order.

E. The provisions of this Order shall govern all proceedings regarding the Work performed pursuant to this Order. In the event of any inconsistency between this Order and any required deliverable submitted by Respondents, the inconsistency shall be resolved in favor of this Order.

XV. PROGRESS REPORTS

A. In addition to the deliverables set forth in this Order, Respondents shall submit written monthly progress reports to EPA with respect to actions and activities undertaken pursuant to this Order. The progress reports shall be submitted on or before the 5th day of each month following the effective date of this Order. Respondents' obligation to submit progress reports continues until EPA gives Respondents written notice that

Respondents have demonstrated, to EPA's satisfaction, that all of the terms of this Order, including any additional tasks which EPA has determined to be necessary, have been completed. In addition, EPA may request periodic briefings by Respondents to discuss the progress of the Work.

B. At a minimum these progress reports shall: (1) describe the actions which have been taken to comply with this Order; (2) include all results of sampling and tests and all other data received by Respondents during the course of the Work; (3) include all plans, reports, deliverables and procedures completed under the Work Plans during the previous month; (4) describe all work planned for the next month with schedules relating such work to the overall project schedule for RA completion; and (5) describe all problems encountered and any anticipated problems, any actual or anticipated delays, and solutions developed and implemented to mitigate or address any actual or anticipated problems or delays.

C. Upon the occurrence of any event during performance of the Work or additional work which, pursuant to Section 103 of CERCLA, requires reporting to the National Response Center, the Respondents shall promptly orally notify EPA's Project Coordinator or in the event of the unavailability of EPA's Project Coordinator the Emergency Response and Removal Branch, Region IV, United States Environmental Protection Agency, in addition to the reporting required by Section 103 of CERCLA. Within ten (10) days of the onset of such an event, the

Respondents shall furnish to the EPA a written report setting forth the events which occurred and the measures taken, and to be taken, in response thereto. Within thirty (30) days of the conclusion of such an event, the Respondents shall submit a report setting forth all actions taken.

D. Respondents shall submit each year, within thirty (30) days of the anniversary of the effective date of this Order, a summary report to the EPA setting forth the status of the Work which shall at a minimum include a statement of tasks accomplished in the proceeding year, a statement of tasks remaining to be accomplished, and provide a schedule for implementation of the remaining Work.

XVI. QUALITY ASSURANCE SAMPLING AND DATA ANALYSIS

A. Respondents shall use quality assurance, quality control, and chain of custody procedures in accordance with EPA's "Interim Guidelines and Specifications For Preparing Quality Assurance Project Plan" (QAMS-005/80) and the "EPA Region IV, Engineering Support Branch Standard Operating Procedures and Quality Assurance Manual" (U.S. EPA Region IV, Environmental Services Division, April 1, 1986) and subsequent amendments to such guidelines. Prior to the commencement of any monitoring project under this Order, Respondents shall submit for review, modification and/or approval by EPA a Quality Assurance Project Plan ("QAPP") that is consistent with applicable guidelines. Respondents shall assure that EPA personnel or authorized representatives are allowed access to any laboratory utilized

by Respondents in implementing this Order.

B. Respondents shall make available to EPA the results of all sampling and/or tests or other data generated by Respondents with respect to the implementation of this Order, and shall submit these results in monthly progress reports as described in Section XV of this Order.

C. At the request of EPA, Respondents shall allow split or duplicate samples to be taken by EPA, and/or their authorized representatives, of any samples collected by Respondents pursuant to the implementation of this Order. Respondents shall notify EPA not less than fourteen (14) days in advance of any sample collection activity. In addition, EPA shall have the right to take any additional samples that EPA deems necessary.

D. Respondents shall ensure that the laboratory(ies) utilized by Respondents for analyses participates in an EPA quality assurance/quality control program equivalent to that which is followed by EPA and which is consistent with EPA document QAMS-005/80. In addition, EPA may require Respondents to submit data packages equivalent to those generated in the EPA Contract Laboratory Program (CLP) and may require laboratory analysis by Respondents of performance samples (blank and/or spike samples) in sufficient number to determine the capabilities of the laboratory.

E. Notwithstanding any provision of this Order, the United States hereby retains all of its information gathering, inspection and enforcement authorities and rights under CERCLA, RCRA, and any other applicable statutes or regulations.

XVII. COMPLIANCE WITH APPLICABLE LAWS

A. All actions by Respondents pursuant to this Order shall be performed in accordance with the requirements of all applicable or relevant and appropriate laws, as required by CERCLA and the National Contingency Plan. The United States has determined that the activities contemplated by this Order are consistent with the NCP.

B. Except as provided in Section 121(e) of CERCLA and the NCP, no permit shall be required for any portion of the Work conducted entirely on the Site. Where any portion of the Work requires a Federal or State permit or approval under CERCLA and the NCP, Respondents shall submit on a timely basis applications and take all other actions necessary to obtain all such permits or approvals.

C. This Order is not, and shall not be construed to be, a permit issued pursuant to any federal or state statute or regulation.

D. Respondents shall include in all contracts or subcontracts entered into for Work required under this Order provisions stating that such contractors or subcontractors, including their agents and employees, shall perform all activities required by

such contracts or subcontracts in compliance with all applicable laws and regulations. Respondents shall provide a certification to the United States that such provision has been included in its contracts and subcontracts, within fifteen (15) days of final execution of contracts for Remedial Design, Remedial Action, Operation and Maintenance, and Performance Monitoring work.

XVIII. PROJECT COORDINATOR

A. Within fifteen (15) days after the effective date of this Order, Respondents shall designate a Project Coordinator and shall submit the name, address, and telephone number of the Project Coordinator to EPA. Respondents' Project Coordinator shall be responsible for overseeing the implementation of this Order. If Respondents wish to change their Project Coordinator, Respondents shall provide written notice to EPA, five (5) days prior to changing the Project Coordinator, of the name and qualifications of the new Project Coordinator. Respondents selection of a Project Coordinator shall be subject to EPA approval.

B. All written communications, including, but not limited to, written responses, notifications or reports, provided by Respondents to EPA pursuant to this Order, shall be delivered by certified mail or by hand delivery, addressed as provided in this Paragraph B. All communications, whether written or oral, from Respondents to EPA shall be directed to EPA's Project

Coordinator, who shall be a Remedial Project Manager or On-Scene Coordinator (RPM/OSC). EPA's Project Coordinator is:

Steve Sandler
Remedial Project Manager
Waste Management Division
U.S. Environmental Protection Agency
Region IV, 345 Courtland Street, N.E.
Atlanta, Georgia 30365
(404)347-7791

C. EPA has the unreviewable right to change its Project Coordinator. If EPA changes its Project Coordinator, EPA will inform Respondents in writing of the name, address, and telephone number of the new Project Coordinator.

D. EPA's Project Coordinator shall have the authority lawfully vested in a Remedial Project Manager (RPM) and On-Scene Coordinator (OSC) by the National Contingency Plan, 40 C.F.R. Part 300. In addition, EPA's Project Coordinator shall have authority, consistent with the National Contingency Plan, to halt any work required by this Order and, to take any necessary response action when he or she determines that conditions at the Site may present an imminent and substantial endangerment to public health or welfare or the environment.

E. The absence of the EPA Project Coordinator from the Site shall not be cause for stoppage or delay of Work.

XIX. SITE ACCESS

A. At all reasonable times from the effective date of this Order until EPA certifies completion of the Work pursuant to Section XXVI of this Order, EPA and its authorized representatives and contractors shall have the authority to

enter and freely move about all property at the Site and off-site areas to which access is required to implement this Order, including areas subject to or affected by the clean up or where documents required to be prepared or maintained by this Order are located, to the extent access to the property is controlled by or available to Respondents. Access shall be allowed for the purposes of conducting any activity authorized by or related to this Order, including but not limited to: 1) inspecting conditions, activities, the results of activities, records, operating logs, and contracts related to the Site or Respondents and their representatives or contractors pursuant to this Order; 2) reviewing the progress of the Respondents in carrying out the terms of this Order; 3) conducting tests or inspections as EPA or its authorized representatives or contractors deem necessary to verify data or information submitted to EPA, to take samples or to investigate contamination at or near the Site; 4) assess the need for planning and implementing additional remedial or response activities at or near the Site; or 5) using a camera, sound recording device or other documentary-type equipment.

XX. ACCESS TO SITE NOT OWNED BY RESPONDENTS

A. If the Site, or the off-site area that is to be used for access, or other property subject to or affected by the clean up or where documents required to be prepared or maintained by this Order are located, is controlled or owned in whole or in part by

parties other than those bound by this Order, Respondents will obtain, or use their best efforts to obtain, site access agreements from such parties within thirty (30) days of the effective date of this Order. Such agreements shall provide access for EPA, its contractors and oversight officials, the State and its contractors, and Respondents or Respondents' authorized representatives and contractors, and such agreements shall specify that Respondents are not EPA's representative with respect to liability associated with on-site or off-site activities under this Order. Copies of such agreements shall be provided to EPA prior to Respondents' initiation of field activities. Respondents' best efforts shall include providing reasonable compensation to any off-site property owner.

B. If access agreements are not obtained within the time referenced above, Respondents shall immediately notify EPA in writing of their failure to obtain access. EPA may use its legal authorities to obtain access for Respondents, may perform those tasks or activities for which access is needed with EPA contractors, or may terminate the Order if Respondents cannot obtain access agreements. If EPA performs tasks or activities with EPA contractors and does not terminate the Order, Respondents shall perform all other activities not requiring the access obtained by EPA. Respondents shall integrate the results of any such tasks undertaken by EPA into its reports and deliverables. EPA reserves the right to pursue reimbursement for all costs and attorney's fees incurred by the United States to obtain access for Respondents.

C. Notwithstanding any provision of this Order, the United States retains all of its access authorities and rights under CERCLA, RCRA and any other applicable statutes or regulations.

XXI. ACCESS TO INFORMATION AND DATA/DOCUMENT AVAILABILITY

A. Respondents shall provide to EPA and its authorized representatives, upon request, access to inspect and/or copy all documents and information in their possession and/or control or that of their contractors or agents relating to activities at the Site or to the implementation of this Order, including all files, records, documents, photographs, sampling and analysis records, chain of custody records, manifests, trucking logs, receipts, reports, sample traffic routing, correspondence, or other documents or information relating to, in EPA's judgment, the remedial activities and other Work required under this Order.

B. Respondents may assert a claim of business confidentiality covering part or all of the information submitted to EPA pursuant to the terms of this Order under 40 C.F.R. § 2.203, to the extent permitted by and in accordance with Section 104(e)(7) of CERCLA, 42 U.S.C. § 9604(e)(7). This claim shall be asserted in the manner described by 40 C.F.R. § 2.203(b) and substantiated by Respondents at the time the assertion is made. Information determined to be confidential by EPA will be given the protection specified in 40 C.F.R. Part 2. If no claim of confidentiality accompanies specific documents or information

when it is submitted to EPA, or if EPA has notified the Respondents that the documents or information are not confidential under the standards of Section 104(e)(7) of CERCLA and 40 C.F.R. § 2.203(b), the public may be given access to such documents or information by EPA or the State without further notice to Respondents.

C. Respondents shall not assert confidentiality claims with respect to any data related to Site conditions, sampling, or monitoring.

D. Respondents shall maintain for the period during which this Order is in effect, an index of documents that Respondents claim contain privileged information or confidential business information. The index shall contain, for each document, the date, author, addressee, and subject of the document. Upon written request from EPA, Respondents shall submit a copy of the index to EPA.

XXII. RECORD PRESERVATION

A. Respondents shall provide to EPA upon request, copies of all documents and information within their possession and/or control or the control of their contractors or agents relating to activities at the Site or to the implementation of this Order, including but not limited to sampling, analysis, chain of custody records, manifests, trucking logs, receipts, reports, sample traffic routing, correspondence, or other documents or information related to the Work. Respondents shall also make available to EPA for purposes of investigation, information

gathering, or testimony, their employees, agents, or representatives with knowledge of relevant facts concerning the performance of the Work.

B. Until EPA issuance of the Certification of Completion of the Work pursuant to Section XXIV and termination of this Order, Respondents shall preserve, and shall instruct their contractors and agents to preserve, all documents, records, and information of whatever kind, nature, or description relating to the performance of the Work.

C. All records and documents in Respondents' possession at any time prior to termination of this Order, that relate in any way to the Site shall be preserved and retained by Respondents for a minimum of 10 years after EPA Certification of Completion of all requirements under this Order. Respondents shall acquire and retain copies of all documents that relate to the Site and are in the possession of their employees, agents, accountants, contractors, or attorneys. After this ten (10) year period, Respondents shall notify EPA at least ninety (90) days before the documents are scheduled to be destroyed and shall relinquish custody of said records or documents to EPA at no cost, upon request.

D. EPA has the discretion to request that all records and documents be retained for a longer period of time by the Respondents.

XXIII. DELAY IN PERFORMANCE

A. Any delay in performance of this Order that, in EPA's judgment, is not properly justified by Respondents under the terms of this Paragraph shall be considered a violation of this Order. Any delay in performance of this Order shall not affect Respondents' obligations to fully perform all obligations under the terms and conditions of this Order.

B. Respondents shall notify EPA of any delay or anticipated delay in achieving compliance with any requirement of this Order. Such notification shall be made by telephone to EPA's Project Coordinator or Alternate Project Coordinator (if there is one) within 48 hours after Respondents first knew or should have known that an event might cause a delay. Within five (5) business days after notifying EPA by telephone, Respondents shall provide written notification fully describing the nature of the delay, the reasons the delay is beyond the control of Respondents, any defenses under Section 106(b)(1) available to Respondents for failing to comply with any relevant requirements of this Order, and a schedule for implementing the measures that will be taken to mitigate the effect of the delay. Respondents shall adopt all reasonable measures to avoid or minimize any such delay. Increased costs or expenses associated with implementation of the activities called for in this document shall not be considered circumstances beyond the control of Respondents.

XXIV. ASSURANCE OF ABILITY TO COMPLETE WORK AND INSURANCE

A. Respondents shall demonstrate their ability to complete the Work required by this Order and to pay all claims that arise from the performance of the Work by obtaining, and presenting to EPA within 30 days of the effective date of this Order, one of the following: (1) a performance bond; (2) a letter or letters of credit; (3) a guarantee by a third party; or (4) internal financial information to allow EPA to determine that Respondents have sufficient assets available to perform the Work.

Respondents shall demonstrate financial assurance in an amount no less than the estimate of cost for the Remedial Design and Remedial Action contained in the Record of Decision for the Site. If Respondents seek to demonstrate ability to complete the Remedial Action by means of internal financial information, or by guarantee of a third party, they shall re-submit such information annually, on the anniversary of the effective date of this Order. If EPA determines that such internal financial information is inadequate, Respondents shall, within thirty (30) days after receipt of written notice of EPA's determination, obtain and present to EPA for approval one of the other three forms of financial assurance listed above. Respondents' lack of ability to demonstrate financial ability to complete the Work shall not excuse performance of this Order or any term thereof.

B. No later than ten (10) days prior to commencing any Work at the Site pursuant to this Order, Respondents shall secure, and shall maintain until the fifth anniversary of the issuance of

the Certification of Completion under this Order: (1) comprehensive general liability and automobile insurance with limits of at least five (5) million dollars, combined single limit; and (2) environmental impairment liability insurance with limits of ten (10) million dollars; in each case naming the United States as the insured. In addition, Respondents shall submit to EPA a certification that their contractors and subcontractors have adequate insurance coverage or have indemnification for liabilities for injuries or damages to persons or property which may result from the activities to be conducted by or on behalf of Respondents pursuant to this Order. Respondents shall ensure that such insurance or indemnification is maintained for the duration of the Work required by this Order. Prior to commencement of the Work under this Order, Respondents shall provide to EPA certificates of insurance and a copy of each insurance policy. If the Respondents demonstrate by evidence satisfactory to EPA that any contractor or subcontractor maintains insurance equivalent to that described above, or insurance covering the same risks but in a lesser amount, then, with respect to that contractor or subcontractor, Respondents need provide only that portion of the insurance described above which is not maintained by the contractor or subcontractor.

C. For the duration of this Order, Respondents shall satisfy, or shall ensure that their contractors or subcontractors satisfy, all applicable laws and regulations regarding the

provision of workers' compensation insurance for all persons performing work on behalf of Respondents in furtherance of this Order.

XXV. UNITED STATES NOT LIABLE

The United States, by issuance of this Order, assumes no liability for any injuries or damages to persons or property resulting from acts or omissions by Respondents, or their directors, officers, employees, agents, representatives, successors, assigns, contractors, or consultants in carrying out any action or activity pursuant to this Order. Neither EPA nor the United States may be deemed to be a party to any contract entered into by Respondents or their directors, officers, employees, agents, representatives, successors, assigns, contractors, or consultants in carrying out any action or activity pursuant to this Order.

XXVI. CERTIFICATION OF COMPLETION

Within thirty (30) days after Respondents conclude that all phases of the Work have been fully performed, that the Performance Standards have been attained, and that all Oversight and Maintenance, and Performance Monitoring activities have been completed, Respondents shall submit to EPA a written report by a registered professional engineer or geologist, registered in the State of South Carolina, certifying that the Work has been completed in full satisfaction of the requirements of this Order. EPA shall require such additional activities as may be

necessary to complete the Work or EPA may, based upon present knowledge and Respondents' certification to EPA, issue written notification (the "Certification of Completion") to Respondents that the Work has been completed. EPA's notification shall not limit EPA's right to perform periodic reviews pursuant to Section 121(c) of CERCLA, 42 U.S.C. § 9621(c), or to take or require any action that in the judgment of EPA is appropriate at the Site, in accordance with 42 U.S.C. §§ 9604, 9606, or 9607.

XXVII. ENFORCEMENT AND RESERVATIONS

- A. EPA reserves the right to bring an action against Respondents under Section 107 of CERCLA, 42 U.S.C. § 9607, for recovery of any response costs incurred by the United States related to this Order and not previously reimbursed by Respondents. This reservation shall include but not be limited to past costs, indirect costs, the cost of oversight, costs for compiling the cost documentation to support cost demand, as well as accrual of interest as provided in Section 107(a) of CERCLA.
- B. Notwithstanding any other provision of this Order, at any time during the term of this Order EPA may perform its own studies, complete the response action (or any portion of the response action) as provided in CERCLA and the NCP, and seek reimbursement from Respondents for its costs, or seek any other appropriate relief.
- C. Nothing herein shall preclude EPA from continuing any existing enforcement actions and/or taking any additional enforcement actions, including modification of this Order or

issuance of additional orders, and/or additional remedial or removal actions as EPA may deem necessary, or from requiring Respondents in the future to perform additional activities pursuant to CERCLA, 42 U.S.C. Section 9606(a), or any other applicable law. EPA reserves the right to pursue reimbursement for the costs of any such additional actions.

D. Notwithstanding any provision of this Order, the United States hereby retains all of its information gathering, inspection and enforcement authorities and rights under CERCLA, RCRA and any other applicable statutes and regulations.

E. Respondents shall be subject to civil penalties under Section 106(b) of CERCLA, 42 U.S.C. § 9606(b), of not more than \$25,000 for each day in which a violation of this Order occurs or such failure to comply continues. Failure to comply with this Order, or any portion hereof, without sufficient cause, may result in liability under Section 107(c)(3) of CERCLA, 42 U.S.C. § 9607(c)(3), for punitive damages in an amount at least equal to, and not more than, three times the amount of any costs incurred by the Fund (as defined for the purposes of Section 107(c)(3) of CERCLA) as a result of such failure to take proper action.

F. Nothing in this Order shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership, subsidiary or corporation for any liability it may have arising out of or relating in any way to the Site.

XXVIII. EFFECTIVE DATE AND COMPUTATION OF TIME

This Order shall be effective on April 22, 1991. All times for performance of ordered activities shall be calculated from this effective date. When computing any period of time under this Order, if the last day would fall on a Saturday, Sunday, or legal holiday, the period shall run until the next working day.

XXIX. OPPORTUNITY TO CONFER

A. Respondents may, within five (5) days after the date this Order is effective, make a written or oral request for a conference with EPA, Region IV to discuss this Order. If requested, the conference shall occur on May 1, 1991 at 1:00 p.m. at 345 Courtland Street, Atlanta, GA 30365. All telephone communications regarding a conference should be directed to Harriet M. Deal or Teresa Harris Atkins at (404)347-2641. The written request for a conference and notice of intent (or written confirmation, as the case may be) may be delivered to EPA by some means of personal delivery other than certified mail.

B. The purpose and scope of the conference shall be limited to issues involving the implementation of the response actions

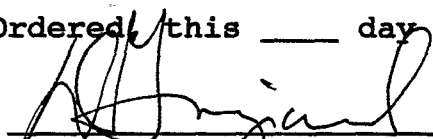
required by this Order and the extent to which Respondents intend to comply with this Order. This conference is not an evidentiary hearing, and does not constitute a proceeding to challenge this Order. It does not give Respondents a right to seek review of this Order, or to seek resolution of potential liability, and no official stenographic record of the conference will be made. At any conference held pursuant to Respondents' request, Respondents may appear in person or by an attorney or other representatives.

XXX. MODIFICATION

No material modifications shall be made to this Order without written notification to and written approval of EPA. The notification required by this Section shall set forth the nature of and reasons for the requested modification. No oral modification of this Order shall be effective. Modifications that do not materially alter the requirements of this Order, such as minor schedule changes, may be made upon the written approval of EPA. Nothing in this paragraph shall be deemed to alter EPA's authority to supervise and modify this Order.

So Ordered, this ____ day of April, 1991.

BY:


Donald J. Guinyard
Acting Director of Waste Management Division
Region IV
U.S. Environmental Protection Agency

DATE:

4-8-91